



Nova Scotia Public Service

Long Term Disability Plan Trust Fund

LONG TERM DISABILITY PLAN TEXT

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*The captions and headings used in this LTD Plan are for convenience and reference only. The terms used as defined terms, as contained in Definitions in the LTD Plan (as denoted in upper case), have the same meaning as prescribed under the Trust Agreement and Participation Agreement, unless otherwise defined herein, or unless the context clearly requires otherwise.

1. ELIGIBILITY FOR COVERAGE

a. Eligibility Requirements

An EMPLOYEE has LTD coverage if they are:

- i. ACTIVELY AT WORK, or one of the following applies:
 - a) are within their QUALIFYING PERIOD and payment of premiums has been continued;
 - b) have an approved LTD claim;
 - c) are on AUTHORIZED LEAVE, and payment of premiums has been continued;
 - d) are on strike or lockout, and payment of premiums has been continued, and
- ii. premiums as set out in the applicable participation agreement have been paid through to the end of the Qualifying Period, save as excepted in sections 1. f. and g.

b. Coverage Effective Date Date of hire

c. Participation Basis Mandatory for Employees

d. Coverage During Authorized Leave

An Employee on Authorized Leave remains eligible to be covered under the PLAN, provided required premiums are continued.

Where required premiums are not continued, coverage will be suspended during the period of Authorized Leave and all terms, conditions, and exclusions applicable to a new Employee will apply when the Employee returns to work, with the first day worked being deemed as the date of coverage for the purpose of interpreting the Plan.

While on an Authorized Leave, if the Employee is employed by another employer who requires participation in any long term disability plan, the Employee may opt out of the LTD Plan. This will not be considered a break in coverage.

If while covered under the Plan, an Employee becomes disabled on or after the date of the Authorized Leave, the Qualifying Period for BENEFITS will start as of the date of disability. Benefits will become payable on the later of:

- i. the date the Qualifying Period is satisfied;
- ii. the date the Employee is scheduled to return to work.

e. **Maximum Period of Coverage During Leave**

The maximum period of continuation of coverage during an Authorized Leave is 24 months unless, at the onset of the Leave, the EMPLOYER, and the Employee (or the Employee's union) have agreed to a specified longer period of coverage.

f. **Strike or Lockout**

If an Employee ceases to be Actively at Work due to a strike or lockout, coverage will continue if premiums are paid.

Should premiums not continue to be paid, exclusions applicable to a new Employee will apply when the Employee returns to work following the strike or lockout, with the first day worked being deemed as the date of coverage for the purpose of interpreting the Plan.

g. **Layoff and Termination**

Continuation of coverage is not available to an Employee who is not Actively at Work due to a layoff or termination.

If the Employee is in their Qualifying Period when premiums cease to be paid, the Employee will only be covered for disability incurred prior to premiums ceasing.

h. **Termination of Coverage**

The coverage of an Employee, who is not receiving benefits under the Plan, terminates on the earliest of the following dates:

- i. the Employee occupies a position that is not eligible for coverage;
- ii. the Employee's termination of employment;
- iii. the Employer's termination of participation in the Plan.

2. ELIGIBILITY FOR BENEFITS

To be eligible for Benefits, an Employee must be disabled as per sections 2. a. and b.

a. **Total Disability or Totally Disabled (Own Occupation Period)**

To be eligible for Benefits, an Employee must have a restriction or lack of ability, because of illness or injury, which prevents them from performing the ESSENTIAL DUTIES of their own occupation during the applicable Qualifying Period and the next 24 months of any period of disability.

b. Total Disability or Totally Disabled (Any Occupation Period)

To be eligible for benefits beyond the 24-month Own Occupation Period, an Employee must have a restriction or lack of ability, because of illness or injury, which prevents them from performing any occupation, for which they are qualified, or may become qualified, through training, education, and experience, and pays not less than 75% of the PRE-DISABILITY EARNINGS.

The availability of work will not be considered by the PLAN ADMINISTRATOR in assessing the Employee's disability.

To be eligible for Benefits, the Qualifying Period must be met as per sections 2. c., d., e. and f.

c. Qualifying Period - All Employees other than Part-Time Employees

100 consecutive lost WORKDAYS due to total disability, or the expiry of sick leave, whichever is greater.

d. Qualifying Period with Periods of Interruption - All Employees other than Part-Time Employees

A return to work shall not be considered a break in consecutive lost Workdays if:

- i. within 30 consecutive Workdays of returning to work, the Employee becomes unable to perform the essential duties of their own occupation because of the same or related illness or injury; or
- ii. within 3 months of returning to work on a trial basis approved by the Employer and, if applicable the responsible Employer/union committee, the Employee becomes unable to perform the Essential Duties of their own occupation because of the same or related illness or injury

In either of the above cases, the Qualifying Period will be extended by the number of days the Employee worked.

e. Qualifying Period - Part-Time Employees

20 consecutive weeks of lost work due to total disability, or the expiry of sick leave whichever is greater.

f. Qualifying Period with Periods of Interruption - Part-Time Employees

A return to work shall not be considered a break in consecutive lost work weeks if:

- i. within 6 consecutive work weeks of returning to work, the Employee becomes unable to perform the Essential Duties of their own occupation because of the same or related illness or injury; or
- ii. within 3 months of returning to work on a trial basis approved by the Employer and, if applicable, the responsible Employer/union committee, the Employee becomes unable to perform the Essential Duties of their own occupation because of the same or related illness or injury.

In either of the above cases, the Qualifying Period will be extended by the number of days the Employee worked.

g. Benefit Effective Date

Benefits are effective the first day following the Qualifying Period.

h. Recurrent Disability

If there has been a return to work after the Benefit effective date, successive periods of disability of an Employee shall be considered as occurring in the same period of disability unless:

- i. the later disability is for causes unrelated to the prior disability; or,
- ii. the later disability is for causes related to the prior disability but recurs more than 6 months after the end of the period for which Benefits were paid.

Where a successive period of disability is considered as occurring in the same period of disability, the Benefits payable during the successive period shall be governed by the Plan text that was in force at the original date of disability.

i. Waiver of Premium

Employee and Employer premiums to the TRUST FUND are waived for Employees with an approved LTD claim.

3. CRITERIA FOR BENEFITS

An Employee will be entitled to Benefits when:

- i. the Employee has been continuously totally disabled throughout the Qualifying Period;
- ii. medical evidence documents how the Employee's illness or injury causes restrictions or lack of ability, resulting in total disability.

4. BENEFIT AMOUNT

If an Employee becomes totally disabled while insured under the Plan, the Plan will pay a Benefit as outlined below, provided the Employee meets the criteria for Benefits.

a. Calculating the Benefit

Initially an Employee's Benefit is based on 65% of their NORMAL SALARY, to a maximum Benefit of \$4,375.00 bi-weekly. Three years following the Benefit effective date, the Employee's Benefit increases to 70% of their Normal Salary, to a maximum Benefit of \$4,711.54 bi-weekly.

b. Cost of Living Adjustment

The PLAN SPONSORS may increase Benefits payable under the Plan to reflect increases to the cost of living, subject to the following:

- i. No increase in a calendar year shall exceed the lesser of 6% per annum, and an amount equal to the average increase to the Consumer Price Index for Canada for the preceding 12-month period ending October 31st, based on the figures as published by Statistics Canada for that period.
- ii. Unless otherwise indicated by the Plan Sponsors, increases shall only apply to Benefits being paid on an Any Occupation basis on the effective date of the increase.
- iii. When the Benefit increases as a result of the cost of living adjustment, the Employee's Pre-Disability Earnings will be deemed to increase by the same percentage.

c. Benefit Reductions (Offsets)

The Benefit to which an Employee is entitled will be reduced by:

- i. entitlement for the same or related disability under the Canada Pension Plan disability benefit, excluding indexing and dependent children's benefits;
- ii. any amount of benefits payable from any group disability plan (excluding the Income Protection Plan for Provincial Court and Family Court Judges);
- iii. the amount of Workers' Compensation benefits, where it is determined an Employee's disability and loss of earnings are only partially work related, except the work related portion of any permanent impairment benefit;
- iv. the amount of income received by an Employee from any employment, including self-employment (except as provided in section 5. b.);
- v. the excess Compensation as per section 9. c. ii.

The reductions in this section 4. c. do not apply to the listed benefits or income to the extent that their entitlement existed prior to the disability. Subsequent changes in income/benefits from other sources, other than cost of living increases, will be taken into consideration and a new Benefit amount may be established.

The Benefit to which an Employee is entitled will not be reduced by severance pay.

d. Maximum Income from All Sources

If the bi-weekly Benefit, plus income from all sources listed under Benefit Reductions (Offsets) exceeds 85% of Pre-Disability Earnings, the Benefit will be reduced by the excess amount.

All sources include those stated under 4.c. **Benefit Reductions (Offsets)**, and any amount the Employee receives from:

- i. any pension plan
- ii. CPP Retirement benefits

5. REHABILITATION

a. Participation in Rehabilitation

Where appropriate, and at the Plan Administrator's discretion, the Employee may be offered rehabilitation to assist them in returning to gainful employment, either to their pre-disability occupation or to another occupation. Any approved rehabilitation program shall not exceed 2 years in duration.

In considering whether rehabilitation assistance is appropriate for an Employee, the Plan Administrator will review:

- i. the nature, extent and expected duration of the Employee's disability; and
- ii. the Employee's level of education, training and/or experience.

The Plan Administrator, in partnership with the Employer, Employee and HEALTH CARE PROVIDERS, will develop a structured return to work plan.

If an Employee ceases to participate in the rehabilitation program because of a change in their medical status, the Plan Administrator will require medical evidence documenting how the Employee's medical condition has deteriorated such that the Employee's inability to continue with the rehabilitation program is due to an increase in restrictions or lack of ability.

Failure to participate in Rehabilitation, as deemed appropriate by the Plan Administrator, will result in suspension of Benefits for so long as the failure continues, and will result in termination of Benefits if the failure prejudices the Employee's ability to return to employment.

b. LTD Benefit While Participating in Rehabilitation

The Benefit for an Employee who is receiving income under a recognized rehabilitation program shall not be reduced unless their Benefit and total income from all sources exceeds 100% of Pre-Disability Earnings.

6. TERMINATION OF BENEFITS

a. Qualifying Period Ending Before or at the Age of 63

Benefit payments will cease on the earliest of:

- i. the date the Employee is no longer disabled as defined in the Plan;
- ii. the last day of the month the Employee turns 65;
- iii. the date the Employee returns to work;
- iv. the date the Employee dies.

b. Qualifying Period Ending After the Age of 63

Benefit payments will cease on the earliest of:

- i. the date the Employee is no longer disabled as defined in the Plan;
- ii. the last day of the month 2 years after the end of the Qualifying Period;
- iii. the date the Employee returns to work;
- iv. the date the Employee dies.

7. EXCLUSIONS AND LIMITATIONS

a. Exclusions (disabilities not covered)

Benefits are not payable under the Plan because of:

- i. disability suffered while voluntarily participating in the commission of a crime;
- ii. disability suffered because of an act of war or participation in a riot, except when carrying out the duties of their occupation;
- iii. disability which arose out of and in the course of employment and is deemed to result in a total loss of earnings capacity by a Workers' Compensation Board;
- iv. disability due to injuries sustained while operating a conveyance (as defined by the Criminal Code), either while the Employee is impaired to any degree by alcohol or a drug, or by a combination of alcohol and a drug, or if the Employee's blood contained more than 80 milligrams of alcohol per 100 millilitres of blood at the time of injury.

b. Pre-Existing Condition

Benefits are not payable under the Plan for a disability commencing within the first 12 months of the effective date of coverage if the disability is directly or indirectly the result of an illness or injury, whether diagnosed or not, for which medical treatment, services or supplies were received in the 90-day period prior to the effective date of coverage.

c. Limitations

Benefits are not payable under the Plan for periods when:

- i. the Employee refuses to disclose medical information required by the Plan Administrator or specialists acting for the Plan Administrator;
- ii. the Employee refuses to be assessed as determined by the Plan Administrator;
- iii. the Employee refuses to participate or co-operate in Rehabilitation as deemed appropriate by the Plan Administrator;
- iv. the Employee is incarcerated in a correctional facility;
- v. the Employee is not following the MEDICALLY NECESSARY treatment of a Health Care Provider;
- vi. the Employee has an illness or injury while in receipt of maternity or parental leave benefits.

8. THE RIGHT TO APPEAL

a. Appealing the Plan Administrator's Decision

When the Plan Administrator has ruled that an Employee is not disabled, the decision may not be challenged by an action in the courts and may only be appealed through the BOARD OF TRUSTEES of the NOVA SCOTIA PUBLIC SERVICE LONG TERM DISABILITY PLAN TRUST FUND.

An appeal process has been established with the following provisions:

- i. The appeal will be limited to determining whether the Employee is disabled.
- ii. The appeal will be heard by an APPEAL BOARD established by the Board of Trustees.
- iii. The appeal will be conducted according to the Appeal Guidelines established by the Board of Trustees pursuant to the Plan.
- iv. The Employee shall bear their own costs of the Appeal Hearing; however, if the Appeal Hearing is successful, the Employee shall receive costs as permitted by the Appeal Guidelines.

- v. The appeal is to be initiated no later than 30 days following the final denial or termination of the claim by the Plan Administrator.

The decision resulting from the Appeal Hearing shall be final and not subject to further review.

9. SUBROGATION AND REIMBURSEMENT

a. Action Against a Third Party

In the event a third party is or may be liable in whole or part for the Employee's total disability, the Trustees will be subrogated to the Employee's claim for damages against the third party (the "Claim"), and may, on notice to the Employee, and in the name of the Employee, commence or maintain an action against the third party for the Claim, and settle the Claim.

For the purpose of this section 9, Employee includes the Estate of the Employee, and third party includes the Employee's motor vehicle insurer under the Section D or SEF 44 coverage.

b. Employee Responsibilities

In the absence of notice from the Trustees, the Employee may advance the Claim in full, and in doing so must:

- i. execute and return to the Trustees a subrogation and reimbursement agreement, acknowledging the Trustees' rights herein;
- ii. cooperate fully with the Trustees towards preserving and advancing the Trustees' rights;
- iii. disclose to the Trustees, on request, any documents or correspondence relating to the Claim, including but not limited to all documents relevant to the Claim, and all demands, offers, counteroffers, mediation notes and briefs, and all medical, economic, actuarial or other expert reports;
- iv. provide the Trustees, on request, with updates of the status of the Claim;
- v. obtain the Trustees' consent before offering to settle or accepting an offer of settlement of the Claim;
- vi. advise the third party of the Trustees' right to consent to settlement of the Claim and obtain the third party's written acknowledgment thereof;
- vii. ensure that any payment in settlement of the Claim is made jointly to, or held in trust jointly for, the Employee and the Trustees pending resolution of the Trustees' entitlement herein.

c. Compensation

Compensation means the portion of any lump-sum or periodic payment received by the Employee or the Trustees from the third party in settlement or partial settlement of the Claim, that is attributable to past lost income, pre-judgment interest, future lost income, and/or diminution of earning capacity, net of recovery costs.

- i. The Compensation shall be applied to reimburse Benefits paid by the Trustees up to the date Compensation is received from the third party.
- ii. If the Compensation exceeds the Benefits paid up to the date such Compensation is received, no further Benefits will be paid to the Employee until the Benefits otherwise payable are greater than the said excess.

Interest of 2.5% compounded annually shall accrue on the Compensation net of the reimbursement and offsets in sections 9. c. i. and ii. and shall form part of the Compensation.

If the Employee advances and settles the Claim, and the settlement of the Claim cannot be reasonably broken down into heads of damage, such that the Compensation can be identified, the Compensation shall be deemed to be the entire amount received or receivable by the Employee pursuant to the settlement.

d. Employee Cooperation

Benefits are not payable under the Plan for any period that the Employee refuses to fully cooperate with the Trustees. If the non-cooperation prejudices the Trustees' rights of reimbursement herein, the Trustees may terminate Benefits, without recourse by the Employee, and commence action against the Employee to recover any loss sustained by the Trustees.

10. AMENDMENTS

The Plan may be amended from time to time by the Plan Sponsors, after consultation with the Board of Trustees.

The Board of Trustees may make policies and/or guidelines respecting matters as necessary, in the opinion of the Board of Trustees, to administer the Plan. The effective date of policies and/or guidelines will be determined by the Board of Trustees.

11. DEFINITIONS

Actively at Work

Refers to an Employee who reports for work with the Employer and can perform their essential duties for the minimum scheduled hours. On weekends or holidays, or when on vacation, an Employee is deemed to be actively at work if they were actively at work on their last normal working day or on their last scheduled shift.

Appeal Board

The Appeal Board consists of one or more qualified medical doctors as determined by the Board of Trustees.

Authorized Leave

A period of absence from work (see **Eligibility For Coverage**) for which the dates are provided by the Employer based upon its agreement with the Employee (or the Employee's union). Refers to a period of time during which the Employee is not actively at work but has not terminated employment, including maternity and parental leave, but excluding periods due to layoff. Authorized leave may include periods that the Employee is on strike or is locked-out if special provisions have been made, including the payment of premiums.

Benefits

Refers to benefits payable to an Employee under the LTD Plan.

Board of Trustees

Board of Trustees, Board or Trustees means the Board of Trustees of the Nova Scotia Public Service Long Term Disability Plan Trust Fund.

Employee

An insured under the Plan, residing in Canada and as defined in the Participation Agreement signed by the Employer.

Types of Employees:

- Full-Time
- Part-Time
- Relief (pertains to Provincial government employees only)
- Contract
- Seasonal
- Term
- Judges - as per the Income Protection Plan for Provincial Court and Family Court
- Judges in Nova Scotia

Employer

An Employer who has signed a Participation Agreement with the Board of Trustees.

Essential Duties

The physical or cognitive functions or tasks, recognized to be fundamental to the occupation and are performed at a regular frequency and duration or are infrequent, seldom, or rare, but if not performed, would not fulfill the requirements of the occupation. These functions or tasks, if omitted, modified, or changed, would leave the requirements of the occupation unfulfilled.

Health Care Provider

A health professional that an Employee consults with when they need care or advice about their health. This can include a family doctor or general practitioner, medical specialist, or nurse practitioner.

Medically Necessary

Broadly accepted and recognized by the Canadian medical profession as effective, appropriate, and essential treatment of an illness or injury, in accordance with Canadian medical standards.

Normal Salary – All Employees other than Relief Employees

An Employee's regular bi-weekly salary, immediately prior to disability, including any educational premium or unit premium received by the Employee, but not including bonuses, and overtime.

Normal Salary – Relief Employees (Provincial government employees only)

The average bi-weekly salary received in the 26 bi-weekly pay periods immediately preceding the date of disability, not including bonuses, and overtime.

Plan Administrator

The professional administrator appointed by the Board of Trustees to provide claims and other administrative services related to the Plan.

Plan Sponsors

The Province of Nova Scotia, as represented by the Public Service Commission, and the Nova Scotia Government and General Employees Union (NSGEU).

Pre-disability Earnings

An Employee's Normal Salary, as increased for cost of living pursuant to section 4. b.

Qualifying Period

Is as defined in Sections 2. c., d., e., and f.

Relief Employee

Pertains to Provincial government employees only.

The Plan or the LTD Plan

The Nova Scotia Public Service Long Term Disability Plan.

Trust Fund or Nova Scotia Public Service Long Term Disability Plan Trust Fund

Trust Fund means all of the assets of the Nova Scotia Public Service Long Term Disability Plan Trust Fund consolidated with all funds and assets received from time to time by way of contributions, together with all increments, earnings and gains accruing thereon and held by the Board of Trustees for the benefit of Employees pursuant to the Trust Agreement.

Workdays

Any day on which an Employee is scheduled to work.